

# THE POWER OF CIVIL SOCIETY

## WORKING PAPER SERIES

WORKING PAPER 5

### Rights, Politics and Power: The Struggle over the 2006 Abortion Reform and the Women's Movement in Nicaragua

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# Rights, Politics and Power: The Struggle over the 2006 Abortion Reform and the Women's Movement in Nicaragua<sup>1</sup>

*Katherine Kruk*

## Abstract

The domestic and international response to the 2006 abortion law reform in Nicaragua has gone largely unnoticed. This paper considers the 2006 Nicaraguan abortion law reform by looking at the situation in the country, with special attention to women's rights, in particular, reproductive—and, more specifically, abortion—rights. The reform eliminates all forms of therapeutic abortion in the country with a penalty of up to three years in prison. The paper shows that the reform is unrepresentative of the attitudes and opinions of much of its civil society members, namely, women's organisations. Further, by analysing the interviews conducted with various women's organisations in the country, this paper reveals the diversity of the women's movement in Nicaragua. Next, the political motivations behind this reform are visited through a historical perspective. Kruk looks at the reinstated president and his incentives for passing the law that imposes serious limitations on women's rights in contrast to his Sandinista regime of the 1980s that encouraged gender equality and promoted the advancement of women's concerns. Important political factors have contributed to this reform, such as the Catholic Church, sexual education and political pacts. In this paper the contemporary abortion debate is used as a lens through which to reveal and understand the contradictions and nuances in the Nicaraguan women's movement and, ultimately, to shed light on the nature of the Nicaraguan social landscape in general.

## About the author

Born in Canada, Katherine Kruk got her master's degree from the Institute of Social Studies in The Hague, The Netherlands, in 2007. Her area of concentration is in human rights, development and social justice. In cooperation with the Dutch NGO, HIVOS, Katherine conducted field research in Nicaragua on the women's movement's response to the 2006 abortion reform.

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<sup>1</sup> This working paper is based on the author's research paper written in compliance with the requirements for obtaining the degree of Masters of Arts in Development Studies at the Institute of Social Studies, finalized in December 2007. Her field research was funded by the 2007 HIVOS-ISS Civil Society Building Knowledge Programme.

## **INTRODUCTION**

On 26 October 2006 the National Assembly voted to eliminate all exceptions to the prohibition of therapeutic abortion in Nicaragua. Previous legislation from a century ago allowed for abortion if it was certified by three doctors that the woman's life was in danger. The new law penalises abortion even when carried out to save the life of a pregnant woman, and even if the pregnancy is a result of rape or incest (Human Rights Watch 2006). This reform has been harshly criticised by international and local institutions, including UN agencies, for taking place in a politicised environment on the eve of the presidential elections. The former revolutionary Sandinista leader, Daniel Ortega - who was once a defender of Nicaragua's limited abortion rights and the women's movement, and a harsh critic of the Catholic Church during his leftist regime in the 1980s - has converted to the Catholic faith and is reaping the benefits of the Church's heavy influence on the voter population (Schutzhofer 2007).

The approval by the National Assembly of Bill 603 that derogates Article 165 of the Nicaraguan Penal Code and penalises therapeutic abortion has been renounced as an unconstitutional breach of the law that also does not recognize women's rights as human rights and endangers their reproductive health. Doctors and women's rights campaigners argue that the new law will increase maternal deaths and infant mortality, while international NGOs, such as Human Rights Watch, claim that not only is the passing of this law a direct threat to human rights, but it goes against fundamental principles of humanity. The reform goes against the 1994 International Conference on Population and Development (ICPD) in Cairo which recognised sexual and reproductive rights as fundamental to women's health (United Nations Population Fund 1994). Nicaragua is the third country in the Latin American region - joining El Salvador and Chile - to institutionalize such an austere law.

Although over 70% of the population of Nicaragua is Roman Catholic, masses have taken to the streets in protest. On 8 January 2007 the first formal appeal to Bill 603 was submitted to the Supreme Court of Nicaragua. Spearheaded by the Nicaraguan Centre for Human Rights (CENIDH) and supported by various other organisations and individuals, this injunction claims the unconstitutionality of the law, as activists say it is a death sentence for more than 400 women who suffer from ectopic pregnancies each year in Nicaragua (Sirias 2007). Twelve percent of all maternal mortality in Latin American countries is attributed to abortion, giving the region the distinction of having the highest proportion of maternal deaths attributed to abortion in the world (Khan et al. 2006).

On 13 September 2007 the National Assembly of Nicaragua voted 66–3 for a Penal Code reform that confirms the criminalisation of therapeutic abortion, making all forms of abortion a crime with sentences of up to 3 years. This reform is inconsistent with Nicaragua's international human rights obligations to ensure women the right to health and the right to life (Lopez 2007).

The new legislation begs the question why the women's movement has been unable to prevent the abortion law reform. Dating back to the regime of the early 1980s women in Nicaragua have been active in many societal domains and tackled different social justice issues. Given the significant presence of women's groups in civil society, why was a law so detrimental to them passed? By analysing different women's groups in Nicaragua I seek to

answer the question: *Why was the women's movement unable to prevent the current abortion law reform in Nicaragua?* Further, I elaborate on how the movement has responded today. What are the different roles and perspectives of the women's movement in Nicaragua, and in which ways and to what extent do different members now attempt to challenge the abortion reform? I listened to the diverse voices that make up the women's movement. In this paper, the contemporary abortion debate is explored as a lens through which to observe and understand the contradictions and nuances in the Nicaraguan women's movement and its inability to block the current abortion legislation.

## ABOUT THE RESEARCH

Research on the politics of abortion can be helpful for advocates of abortion law reform, especially in countries where there is a clear discord between legislation and public opinion. Additionally, studies done on the opinions of health care providers with respect to abortion are also valuable, as these actors are regarded as authorities on health matters and can influence the availability or quality of the service. Latin America has the highest maternal mortality rate attributed to abortion in the world today and yet research from these low and middle-income countries are notoriously underrepresented in international health literature. The aim of this research is to widen the scope of studied countries in Latin America with regard to the opinion of the women's movement on the abortion issue. To achieve this, I gathered information on abortion opinion in Nicaragua in order to provide a small contribution that might fill some of the gaps in the existing regional thematic literature and help inform the abortion debate.

Further, recent studies on social movements in Latin America reveal that there is an overwhelming focus on the impact that social movements have on policy and not enough focus on the impact that movements fail to have. The literature does not provide critical assessments of movements that have been unsuccessful in achieving their objectives. The success or failure of a movement to impact government policy is the result of more factors than only its (dis)ability to change constitutional behaviour. If the goal of this type of research is to better understand movements and help them improve their success rates, then it is just as important to understand the broader factors and contexts that contribute to their failure. With respect to categorising the women's movement in Nicaragua, I do not wish to imply that their efforts are a failure; rather I attempt to explain the different strategies taken to represent their interests to claim their rights in the context of a very complicated and highly impenetrable setting.

This research draws heavily on the knowledge and experiences of women's organisations in Nicaragua using qualitative and participatory methods. The research methodology was devised to ensure that the response of the women's movement in Nicaragua is accurately captured by providing opportunities for reciprocity and reflexive exchange of ideas.

My field research consisted of a 6-week field study in Nicaragua with the support of Hivos (*Humanistisch Instituut voor Ontwikkelingssamenwerking* or Humanist Institute for Development Cooperation), a Dutch NGO in cooperation with the ISS (Institute of Social Studies), and CENIDH (*Centro Nicaragüense de Derechos Humanos*, or Nicaraguan Center for Human Rights), a Nicaraguan NGO. CENIDH provided me with a strategic setting upon which I built my analysis of women's organisations. During this time period I conducted nine thematic interviews, attended lectures and workshops and gathered country statistics. The idea was

to collect first-hand data and in-depth insight into the debate, and identify the varying responses from different women's groups and from a governmental representative.<sup>2</sup>

Each group was asked a total of approximately 35 questions (give or take spontaneous add-on questions) that were classified into three categories: (1) basic/demographic, (2) mandate/organisational, and (3) abortion law-related. The interview consisted of mostly open-ended questions which allowed more space for diverse responses. All of the interviews were conducted in person, in Spanish, and in the organisation's head office, so as to enable a comfortable interview environment.

## THE MANY FACES OF THE MOVEMENT

To understand the context in which the answers were given to the main question of this research - why was the women's movement unable to prevent the law reform in Nicaragua - , it is important to first understand the nuanced roles of the movement in such a heavily politicised setting. This section dissects and categorises the women's movement based on the various political postures that the different organisations exemplify.

### As Catholics

'We expect to be harshly criticised for being Catholic and in favour of therapeutic abortion at the same time.' This was said by a member of Nicaragua's *Católicas por el Derecho a Decidir*.<sup>3</sup> It is a common expectation of the Catholic, Evangelical, Anglican and Episcopalian women who compose this pro-liberal, religious women's group. The main objective of this organisation is to reinterpret Church teachings through a gender perspective while welcoming non-Catholic women as well. For the members, Catholicism is not homogenous and instead has two faces: (1) the Catholic hierarchy of priests and bishops, and (2) women Catholics. The organisation is motivated to reinterpret the Bible and to fight for women's rights and equality within the Church. Also, they strive at critically analysing the Church's attitude towards gays and lesbians and they study how the Church has historically dealt with abortion. In the current abortion reform debate, this grassroots organisation participates in campaigns, protests and public discourse. While being a Catholic and in favour of abortion at this time in Nicaragua may seem somewhat of a contradiction, *Católicas por el Derecho a Decidir* stand firmly behind their objectives of strengthening the feminist movement and questioning Catholic fundamentalism in Nicaragua. In Nicaragua, the topic of abortion is bombarded by political, health, human rights and religious factors. It is the overlap of these themes that breeds inconsistency. Thus, clarifying the perspective

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<sup>2</sup> Leading representatives of the following eight women's groups was interviewed: *ISNIN Centro de Mujeres*, *IXCHEN Centro de Mujeres*, *Católicas Por El Derecho de Decidir*, *Movimiento Autónomo de Mujeres*, *Puntos de Encuentro*, *Si Mujer*, *Red de Mujeres Contra la Violencia*, *Colectivo de Mujeres 8 de Marzo*. Further, the secretary to Nicaragua's Supreme Court, Rubén Montenegro Espinoza, was interviewed in order to obtain a legal perspective on the abortion debate and insight on the process of appeals that is being currently conducted.

<sup>3</sup> Interview with Magaly Quintana, member of *Católicas por el Derecho a Decidir*. Managua (24 August 2007).



of *Católicas* exposes a rather unorthodox religious component of the women's movement but affirms that their presence in the abortion battle is of a concrete nature.<sup>4</sup>

### As Rural Women

'The rural women of Nicaragua sometimes cannot make it to the city, so we go to them', states the executive director of *IXCHEN Centro de Mujeres*. The women involved in this grassroots organisation take pride in going out to reach distant or rural communities that lack health care or education services. Providing cervical cancer detection scans in movable trailers and organising community education workshops for women are but a few of the functions of *IXCHEN*. Their stance in the abortion debate has not gone unnoticed as they initiated a study on people's opinions about abortion. It was conducted in 5 Nicaraguan departments (or provinces) using radio and TV channels to convey the message. *IXCHEN* has administered local workshops educating community members on alternatives to violence, health matters and the current abortion reform. The main focus is to foster trust with these women and maintain a support network that builds self-confidence so that rural women are able to go out themselves and seek sources of information and make educated decisions on matters concerning themselves without embarrassment or hesitation. *IXCHEN's* approach provides a fast-responding alternative for the socially excluded women in the rural or urban outskirts of Nicaragua. In a country where transportation can be arduous, *IXCHEN* utilises a flexible method of service delivery and communication to reach the rural and isolated women who often suffer in silence. This lends a practical component to the movement, making it far-reaching and accessible to many more.<sup>5</sup>

### As Urban Women

'The cost of an abortion in Nicaragua can range anywhere from \$US200–500, and with the new law, probably even more,'<sup>6</sup> expressed the representative of another active women's organisation whose headquarters are located in a small office in a typical urban Managua neighbourhood. Aside from providing a space within which to perform administrative tasks, the office hosts a medical doctor 6 days a week in the afternoons and a psychologist and lawyer three times a week. Their approach has been to provide convenient solutions or advice to women in need of health or legal services. Although providing abortion services in post-2006 Nicaragua where the practice has been completely criminalised, is a risk, women of this NGO firmly decided to continue taking this risk. The group has chosen to articulate its position in the abortion debate in Nicaragua through a bold and now illegal approach. Perhaps these actions are an expression of dissent or simply result from necessity. Regardless, this component of the women's movement conveys a strong message that relies on the expedience and bravery of those involved. If the law will not provide for women in demanding situations, they will not cease to find alternative solutions to their problems themselves.

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<sup>4</sup> Interview with Magaly Quintana, member of *Católicas por el Derecho a Decidir*. Managua (24 August 2007).

<sup>5</sup> Interview with Argentina Espinosa, member of *IXCHEN Centro de Mujeres*. Managua (27 August 2007).

<sup>6</sup> Interview with *Identity Withdrawn*. Managua (August 2007).



## As Politicians

'We are not an NGO, NGOs depoliticise women's rights and institutionalise rights when the protection of rights should be a state function.' This statement by a representative of *Movimiento Autónomo de Mujeres (MAM)* reveals the more politicised nature of this movement as compared to other women's movements in Nicaragua. Emphasising the importance of working with the state, *MAM* has been affiliated with the Nicaraguan political party, *Movimiento Renovador Sandinista (MRS)*, or the Sandinista Renewed Movement) which is a splinter party that resulted from the fractioning of the *FSLN* in 1995. *MAM* has claimed that over 90% of their mandate has been incorporated into the political platform of the *MRS*. These women view the abortion debate as a harsh regression for women's rights in Nicaragua and that it is an issue that should be resolved from within the framework of the state. They promote the politicisation of women citizens so that they are equipped with the legal knowledge to pursue their battles. *MAM* did not want to be categorised as an NGO because in their opinion, NGOs are intrinsically weak and these types of temporary service provision projects are too limited to provide long-term solutions for the future. *MAM* considers itself a social movement whose membership consists of individuals or organisations that comply with the mandate of promoting civil and individual rights according to the law. It has supported education workshops and sponsored seminars on the various issues surrounding women's health and rights, and has used many forms of communication to disseminate information on democratisation and state's obligation to take women's rights issues seriously. The abortion issue has been a top priority since the new reform but *MAM* chooses to take action through a political route, working with state institutions and attempting to make a change from within. Sharing the common goal of revoking Bill 603, in its method and approach *MAM* differs from the rest of the women's movements in Nicaragua.

## As Health Professionals

'Over 90% of obstetricians and gynecologists agree that therapeutic abortion is necessary to save women's lives'. This was the result of a study conducted in 2001 that gathered the opinions of obstetricians and gynecologists in Nicaragua on the medical and ethical implications of providing therapeutic abortion services (McNaughton et al. 2002). *Si Mujer*, a nongovernmental organisation that specialises in providing health services for women, works together with gynecologists and health care professionals in the numerous branches nationwide. They have a reputation as one of the most prominent and far-reaching women's health service providers in Nicaragua. The members of *Si Mujer* are academics, doctors, nurses and lawyers who are currently leading the campaign against the elimination of therapeutic abortion in the country. They have organised, funded and taken part in seminars, press debates and university lectures to raise awareness on women's health and rights. Dr Ana Maria Pizarro, a leading figure and member of *Si Mujer*, has traveled around the country bringing information and statistics to all those who will listen. Tireless effort has been exerted by the administrative staff of the organisation in booking appointments and meetings for women in both compromising health situations and abuse cases. The women of *Si Mujer* have transformed the women's movement from social expression to being the direct link between the population and health sector. In a country where the health care system and the state fail to fulfill its obligations to ensure women's rights, *Si*

*Mujer* fills these gaps and addresses the necessary issues, making it a vital component of the women's movement in Nicaragua.<sup>7</sup>

### As Women in Agreement with Therapeutic Abortion Only

'The fight here is about therapeutic abortion and not complete elective abortion.' The representative of *Puntos de Encuentro*, a gender development NGO, made it clear that the abortion debate in Nicaragua is a central focus of the organisation because it is an integral part of women's rights. Therapeutic abortion is necessary to prevent women from dying, thus inextricably linked to women's health. However, the right to elective abortion is not so directly linked to the issue of women's health. *Puntos* focuses on transforming power relations within Nicaraguan society. It targets youth participation. The women of this organisation were among those who camped outside of the parliament building during the electoral debates, demanding to be part of the discussion and marching against the blanket ban on therapeutic abortion. However, the favorable opinion on abortion of the members of *Puntos* does often not go beyond the therapeutic case. So, while the organisation battles against the prohibition of therapeutic abortion it chooses not to demand the right to electively abort. This adds a new cleavage to the women's movement, although the lack of absolute concordance on the abortion issue does not necessarily impede the movement from functioning as a unit. It is not an easy thing for people to put aside their differences and join hands to fight a collective cause. But this is exactly what is taking place, which can be explained by the determination of the movement to persevere and the importance of the issues to its members. It is the shared view on the unconstitutionality of Bill 603 that unites many sectors of Nicaraguan society and the common denominator that allows them to push forward the common agenda.<sup>8</sup>

### As Women of a Secular State

'To win this battle we must first decriminalise abortion ideologically,' stated Luz Marina Torres of *Colectivo 8 de Marzo*. She emphasised the close ideological relationship which the state of Nicaragua has with the Roman Catholic Church. Nicaragua is constitutionally secular, and thus the deepening union between the Church and the state is a growing worry for organisations such as *8 de Marzo*. The approach that this group takes in the abortion debate is to target the state and its religious affiliation. They have drawn attention to the emergence of the Catholic hierarchy in government affairs and directly blame the new abortion reform on the influence of the Catholic Church. Luz Marina considers this ideological trend as harmful to the health and lives of women, and suggests reversing the reform by firstly attempting to separate the ideology of the Church on abortion with the functioning of the state. Religious beliefs do not have jurisdiction over legal regulation in a secular state. However, *Colectivo 8 de Marzo* reminds us, in Nicaragua today, the decriminalisation of abortion needs to be a state affair first and not a state- via-Church affair.

The women's movement in Nicaragua represents a range of diverse perspectives all of which make up the context in which the battle to decriminalise abortion takes place. This section attempted to provide insight into these points of view. Each argument is a valid

<sup>7</sup> Interview with Maria Jesus, member of *Si Mujer*. Managua (29 August 2007).

<sup>8</sup> Interview with Evelyn Flores, member of *Puntos de Encuentro*. Managua (28 August 2007).

rationalisation in the demand for change. As members of civil society, the women's movement recognises its responsibility, and its members have taken it upon themselves to attack the state in this regard by using facts, figures and different methods of communication to convey the harmful effects of the new law and to collectively denounce it. Despite their efforts, women's groups in Nicaragua today have very little influence. In a state where civil society is supposed to be strong and political space for them is supposed to exist, why do their voices count for so little? Why was the abortion law passed despite the presence of the women's movement in Nicaragua?

## **THE POLITICAL SETTING**

Answering a research question on why a movement has failed must start from looking internally at that movement. It is increasingly important to determine how much influence structure actually had on agency, and the only way to verify this was to thoroughly observe the internal organisation, foundations and functions of the multilayered women's movement. Stark observations were made in this process, which in themselves could provide the basis for new research studies. However, the main objective was to obtain accurate qualitative research on this particular movement as well as a deep understanding of the structural context in which it operates so as to provide an explanation for the events that transpired. Established political process theories support these findings but more notably set down the principle elements required for this process of investigation.

The answer to why the women's movement in Nicaragua has not been as effective as they would like to be in the contemporary abortion battle lays mainly in the political context of the country. My theoretical assumptions are based on political process or political opportunity theory which emphasises the interaction of a social movement with groups and institutions within its context (Meyer 2004). It explains how political, social and economic contexts create political opportunities that are exploited by social movements with relative degrees of success and failure. Escobar and Alvarez (1992) sharpen this perspective further by arguing that social movements will have room to expand and function only with political openings and/or democratic transitions. In the context of Latin America, it is important to understand how the political setting determines the success or failure of a social movement.

### **The Sandinista Regime 1979-1990**

Nicaraguan politics date back to Spanish colonial rule. Independence was followed by decades of rule by an elitist dynasty and finally culminated in the Sandinista Revolution of 1979. This turn-of-the-decade revolution signified the termination of a strictly militarised dictatorship.

The Sandinista ideology was based on and named after the anti-imperialist struggles of Augusto Cesar Sandino in the 1930s, Nicaragua's national hero. With his revolutionary take-over, Daniel Ortega, the leader of the movement, started widespread reforms that promoted social justice at all levels. Ortega's famous literacy campaign was admired worldwide and succeeded in increasing the country's literacy rate by 31%, from 53% to 78%. He did this by subsidising education nationwide and promoting school assistance to the poor (Torres 1991). Other actions taken by Ortega's government during this time came in the form of land reform initiatives, free unionisation, increased social services,

protection of democratic liberties and abolition of torture. The Sandinistas also supported women's issues as shown by the 1981 ratification of CEDAW and the foundation of Nicaragua's state-funded women's organisation, AMLAE. However, these particular social reforms eventually threatened the United States and resulted in their training and dispatch of counterrevolutionaries to Nicaragua. Years of civil war raged within Nicaragua's borders until 1990 when Daniel Ortega was finally voted out of power.

## **FSLN 2006**

The elections of 1990 in Nicaragua confirmed the electoral and power loss of the Sandinistas but not the death of the movement or its leader. Ortega would spend the next sixteen years and three consecutive presidential elections attempting to regain executive power. Not until the 2006 elections, to the baited breath of the whole world, was this ex-revolutionary reinstated as President of Nicaragua. However, the 2006 electoral win did not come in the form of a revolutionary march on Managua but was rather the result of a series of events including the death of a prominent opposition leader, the subsequent fractioning of the opposition, the tweaking of electoral rules and the newly established alliance between Nicaragua's archbishop and Ortega's political party.

## **The Roman Catholic Church**

In a predominantly Roman Catholic nation it is necessary to understand the Church's role in Nicaraguan politics.<sup>9</sup> The influence of the Church stems back to the Spanish colonisation of Latin America and the Catholic tradition that the Spaniards brought with them, along with the Spanish language and culture. The Catholic Church has a structure that can be traced back to the medieval times with a strong hierarchy. Recognising the people's need for a religious belief and for a link with the Church, politicians carefully cater to this resource during election periods. In Nicaragua, people are more likely to change their minds on political candidates than they are on religions. On 25 October 2007, Ortega sided with Archbishop Obando y Bravo and signed the bill that would eliminate therapeutic abortion from the Nicaraguan constitution. Ortega had an election to win, past sexual abuse charges to erase, and a few women's groups in the street were not going to stop him (Gonzalez 2001). The great legacy and sway of the Catholic Church was his ticket to an election victory.

## **Sexual Education**

The Catholic Church may have been the obvious factor in this story but there are other underlying elements in Nicaraguan politics that beg to be discussed as well on the abortion reform question. Sexual education in Nicaragua—and most of Latin America—has always been the topic of much controversy. Its full implementation within the formal education system has constantly been challenged by conservative political and religious groups, resulting in adherence to the Catholic hierarchy and an inadequate academic curriculum. A fundamental theme in reproductive health and sexual education is abortion and if students are not permitted to learn about these topics, how can they make informed decisions or have opinions in critical debates in the future? With one of the highest teen pregnancy rates

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<sup>9</sup> Ana Maria Pizarro (2007) Seminar 'Campana 28 de Septiembre' in La Universidad Centro-americana. Managua (27 August).

in Central America and soaring sexual abuse rates, insufficient basic knowledge on sexual reproduction and health are reflected in the society's values and attitudes which only serve to exacerbate the social inequalities in Nicaragua (Maltez Heuzo 2006). Thus another underlying obstacle that challenges the women's movement in the abortion debate is the deficiency of systematic sexual education in the country.

### **Political Pacts: 'El Pacto'**

'El pacto' is the notorious back-scratching relationship between former Nicaraguan President, Arnoldo Alemán, and current head of state, Daniel Ortega. Alemán needed the help of Ortega's judiciary to dodge his criminal charges and Ortega needed Alemán's existing seats in the Assembly to vouch for his running candidacy and turn a blind eye to his past misdemeanors. It is this friendship that has allowed Alemán's house arrest to be served from his luxury villa while Ortega continues today to enjoy every courtesy extended to him by Alemán supporters in the National Assembly. The importance and actual meaning of an abortion bill is lost in a context where the decision to sign or not sign a bill is made in order to satisfy ulterior motives. In this case, approving the abortion ban not only consolidated Ortega's support of the Catholic Church and electoral win, but also the Ortega–Alemán pact.

Ultimately, the political context of the country, the President's revolutionary history, 'renewed' platform, the Catholic Church, state-run education system, government pacts and regional alliances all seem to have taken higher priority in the abortion reform than the women's movement in Nicaragua.

## **CONCLUSIONS AND DISCUSSIONS**

After analysing some of the factors that influence the political decision-making process in Nicaragua, it becomes clear that the women's movement comes at the tail-end of the national political scenario: after the Catholic Church, the stalled judiciary and fearful doctors, all beating to the drum of an anxious leader. The women's movement was unable to prevent the abortion law reform in Nicaragua because there were too many political forces that took precedence over women's rights. It is not so much an issue of division within the movement as one of political influence and power relations. These themes dominate rights issues within the country, be they health rights or political rights. The simple answer to the question why such a law was passed in spite of the women's movement was that politics trumped human rights.

In 2006, the women's movement was divided around issues of religion and personal responsibility, but there had been a solid consensus about preserving the right to therapeutic abortion for years before Daniel Ortega was reelected. The alliance then formed between the Ortega government and the Catholic Church created a powerful political force in the country and, with it, demands for a highly visible demonstration of religious influence in the country's policies. Abortion is one of the most prominent issues for conservative Catholicism today and as a result, this became a focus for the Nicaraguan Church. President Ortega was, therefore, under pressure to introduce legislation that effectively bans all forms of abortion, putting Nicaragua in the forefront of religious conservatism in the region. Abandoned in the election in favour of the more powerful Catholic Church, the women's movement went from being an important political



constituency in Ortega's first term as president, to an outsider in the process of political decision-making in his current one.

It had been a long wait for Daniel Ortega to regain political power, and after sixteen years of being on the margins of power, little was going to stand in his way now. After a destructive civil war, the people of Nicaragua needed something to believe in and Ortega waving his new flags provided that for many. In Nicaragua today there are posters and billboards of Ortega plastered all over the country declaring 'Forward progress with the poor of the world!' when ironically, he is marginalising the poorest and most vulnerable parts of his society: Nicaraguan women. These women are being denied access to an important health service that is known to reduce maternal mortality and are dying preventable deaths. A good place to start with helping the poor would then be to fulfill the state's obligation to ensure the health and protect the lives of Nicaragua's women. Women need to be informed of their rights and doctors reminded of their medical oaths to treat them.

### **Rights Implications**

Crucial reproductive and human rights—the right to abortion—were nullified through a deliberate political process. Along the way, the women's movement was marginalised and saw its political influence dissipate. This is a story that affects two sets of rights: health rights and political rights. The health rights involved in this debate start with reproductive health but go far beyond abortion rights to a health access issue. The criminalisation of abortion has repercussions throughout the health service sector, threatening medical professionals with loss of their license to practise and women with loss of healthcare access in general. Since the legislation was passed in October 2006, there have been more than 80 documented deaths of women—all of significantly low income—due to negligent healthcare or lack of access to healthcare (Lopez Vigil 2007). This poses a serious problem, as Human Rights Watch findings from their recent publication, 'Over Their Dead Bodies', reveals that medical staff in the country has admitted to not wanting to get involved in cases that even remotely resemble an emergency obstetric case (Human Rights Watch Report 2007). It is not only about abortion anymore as this changing attitude in medical centers also poses a threat to the millions of women in the country who require non-abortion health services. It had always been difficult to obtain a legal abortion in Nicaragua, as past legislation required the consent of three medical professionals. For rural women with limited access to medical doctors, this was a near impossibility, and thus for them, the new law changes very little. However, the difference between now and then lies in the very real hesitation of hospital staff today. The service is now illegal and those professionals at risk are those who administer first-line healthcare, usually the nurse, who is usually a woman as well.

In a country such as Nicaragua, any diminution of health access violates other rights as well, in particular political rights in a broad sense. What are the implications of Bill 603 on the political rights of women in Nicaragua? Having been shut out of public electoral debates and disregarded by the judiciary in the appeals process, women have not been protected by the state as far as their political rights are concerned. They are not recognised as key players and, therefore, are not extended an invitation to take part in civil discourse, which ironically deals with topics that determine the fate of their health and lives. Angered by this situation, more than 50 women marched into the Metropolitan Cathedral of

Managua during a Sunday morning mass on 30 September 2007 protesting the hypocrisy of the Catholic hierarchy. While being condemned from the pulpit by the head priest and called '*diabólicas*' or demonic, the protestors were physically shoved out of the church and splashed with water and spit on (Perez 2007). They were demanding their political rights of expression, their right to be heard, but were forced to leave the premises. The abortion ban decided by Bill 603 thus strikes down two fundamental human rights, which carries with it implications that endanger not only women's rights but also Nicaragua's avowed liberal democratic tradition.

Rights are contingent, historically constructed and politicised. Their realisation in state policy and behaviour is a significant contribution towards the human and economic development of a nation. To make advancements in the study of development, it is required to see beneath the surface of an issue and address the true question. Hence, this paper has emphasised the importance of the political context in the rights discourse. In the case of Nicaragua, political context and the human rights discourse are inextricably linked, as political corruption in the country has been lifted to new heights. Human rights rarely stand alone in any country context, let alone a developing one. This is precisely why, in order to understand the implications that rights have on citizens, it is crucial to understand the political dynamics within which they exist.

At the end of 2007 Nicaragua was struck by natural disaster: it was flooded by torrential rains causing destruction, displacement and death. We were again reminded of the forces of nature that already threaten health and plague this developing nation where over 70% of the population lives in poverty (Zamora 2007). The last thing they need is for decision-makers to challenge or weaken them further by not addressing their health issues adequately. Ultimately the abortion debate disregards the women's movement and the legal appeals process, and instead has everything to do with the motivations and interests of opportunistic political leaders. Nicaragua has a notorious history of struggle for social justice and equality, but the complete elimination of all forms of abortion denies the equal treatment and protection of women, particularly the poorest and most vulnerable in the country.

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